Writ Petition no. 11210 of 1996-old number
Writ Petition no. 3880(S/S) of 2001-new number

Chandan Singh Latwal ----------
Petitioner.

Versus

Basic Shiksha Adhikari and others ----------
Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri V.K.Bist learned counsel for the petitioner and Sri H.M. Raturi for respondents no. 1 and learned Standing Counsel for State of Uttaranchal.

The petitioner has prayed for a writ of mandamus directing the respondents to pay him pay scale of Rs. 1200-2040 which is pay scale sanctioned for the trained teachers.

The submission of the petitioner is that he was appointed as a craft teacher by the respondent no.1, Basic Shiksha Adhikari Nainital vide appointment order dated 24.03.1986 in the pay scale of Rs. 365-555 and was posted in Junior High School Kakdi Ghat district Nainital through he was appointed in the pay scale of Rs. 365-555 he was not paid the pay scale as prescribed in the appointment letter itself ad on the contrary he was paid Rs. 365.00 per month as a consolidated salary till December 1989. In the months of January, February and March 1990 he was paid the pay scale of trained teacher. Again he is being the consolidated amount of Rs. 365.00 per month with effect form 1.4.1990 to 31.12.1995 and thereafter form 1.1.1996 till today he is being paid a consolidated salary of Rs. 2750.00 per month.

Sri H.M. Raturi learned for the respondent no. 1 has filed counter affidavit. He has not denied the fact that the petitior ws appointed as a teacher (craft) by the competent authority in the pay scale of Rs. 365- 555. However, he is not being paid the pay scale as prescribed in the appointment order because the petitioner is not a trained teacher. According to the respondents the petitioner is having qualification of Intermediate with diploma in craft Learned counsel for the respondents has submitted that the education qualification is not prescribed anywhere for the appointment of teacher (craft) for Junior High School. In para no. 3 of the counter affidavit it

has been stated that the assistant director of Education (Basic) through his letter dated 23.8.1990 directed that since appointment of Sri Chandan Singh Latwal (petitioner) had been made as assistant teacher of Spinning and weaving as such he is entitled for trained grade. The order of Assistant Director of Education (Basic) has not been complied and the petitioner has not been paid the pay scale. Under the Rules the authorities are bound to comply the order of the higher authority. In a full Bench case of Allahabad High Court, (Lucknow Bench) **Tara Prasad Mishra Vs. State of U.P. and others reported in (1990) 2 U.P. Local Bodies and Educational Cases 905** has held that the authorities are bound to obey the orders passed by the higher authorities and in case the orders are not obeyed there will be a chaos in the administration. It is not disputed that the prescribed qualification for appointment of craft teacher in Junior High School is Intermediate with diploma in Craft. The petitioner is having the same qualification. If a person who is having the same qualification can be appointed Craft Teacher in Higher Secondary School why he cannot be appointed Craft –Teacher in Junior High School.

For the reasons stated above the writ petition is allowed. The respondents are directed to pay to the petitioner pay scale as already given in the appointment order of the petitioner. No order as to costs.

(M.M. Ghildiyal, J.)

July 29, 2003:
MPS: